

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MICHAEL MONTGOMERY,
Plaintiff,

v.

WAL-MART STORES, INC.;
KINDERHOOK INDUSTRIES II, L.P.;
KINDERHOOK INDUSTRIES, L.L.C.;
KINDERHOOK CAPITAL FUND II,
L.P.; CRESTWOOD HOLDINGS, INC.;
BERGAN, L.L.C.; JOHN ELMBURG;
ROBERT ELMBURG; ERIC
ELMBURG; ROCKY FLICK; HOME
DEPOT U.S.A.; DOES 1 through 20,
inclusive,

Defendants.

Civil No. 12-cv-3057-JLS (DHB)

**ORDER SCHEDULING
SETTLEMENT CONFERENCE**

On August 19, 2014, the Court held a telephonic Status Conference in this matter. Having been apprised of the status of the case, and good cause appearing, IT IS HEREBY ORDERED:

A Settlement Conference shall be conducted on **October 1, 2014** at **9:30 a.m.** in the chambers of Magistrate Judge David H. Bartick. The parties shall submit settlement statements **directly** to Magistrate Judge Bartick's chambers no later than **September 24, 2014**.¹ The parties may either submit confidential settlement statements or may exchange

¹ Statements under 20 pages in length, including attachments and exhibits, shall be e-mailed to chambers at efile_Bartick@casd.uscourts.gov. Statements exceeding 20 pages in length, including attachments and exhibits, must be delivered directly to chambers.

1 their settlement statements. **All named parties, all counsel, and any other person(s)**
2 **whose authority is required to negotiate and enter into settlement shall appear in**
3 **person at the conference**. The individual(s) present at the Settlement Conference with
4 settlement authority must have the unfettered discretion and authority on behalf of the
5 party to: 1) fully explore all settlement options and to agree during the Settlement
6 Conference to any settlement terms acceptable to the party (*G. Heileman Brewing Co.,*
7 *Inc. v. Joseph Oat Corp.*, 871 F.2d 648, 653 (7th Cir. 1989)), 2) change the settlement
8 position of a party during the course of the Settlement Conference (*Pitman v. Brinker*
9 *Int'l, Inc.*, 216 F.R.D. 481, 485-86 (D. Ariz. 2003)), and 3) negotiate a settlement without
10 being restricted by any predetermined level of authority (*Nick v. Morgan's Foods, Inc.*,
11 270 F.3d 590, 596 (8th Cir. 2001)).

12 Governmental entities may appear through litigation counsel only. As to all other
13 parties, appearance by litigation counsel only is not acceptable. Retained outside
14 corporate counsel shall not appear on behalf of a corporation as the party who has the
15 authority to negotiate and enter into a settlement. **The failure of any counsel, party or**
16 **authorized person to appear at the Settlement Conference as required shall be cause**
17 **for the immediate imposition of sanctions.** All conference discussions will be informal,
18 off the record, privileged, and confidential.

19 **IT IS SO ORDERED.**

20 DATED: August 19, 2014

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22 DAVID H. BARTICK
23 United States Magistrate Judge
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